

REMARKS

This application has been carefully reviewed in light of the Office Action mailed September 18, 2003. At the time of the Office Action, Claims 1-20 were pending in the Application. In the Office Action, the Examiner rejected Claims 1-20.

Section 103 Rejections

The Office Action rejects Claims 1-3, 5-12, and 14-20 as being unpatentable over U.S. Patent No. 6,539,237 to Sayers et al. ("*Sayers*") in view of U.S. Patent No. 6,473,411 to Kumaki et al. ("*Kumaki*"), further in view of U.S. Patent No. 6,292,829 to Huang et al. ("*Huang*"). Claims 4 and 13 are rejected as being unpatentable over *Sayers* in view of *Kumaki*, further in view of *Huang*, and further in view of Newton's Telecom Dictionary, 13th Edition ("*Newton*"). Applicants traverse these rejections and all assertions therein for the reasons discussed below.

Applicants respectfully submit that the Examiner has failed to show how the combination of *Kumaki* in view of *Sayers*, or *Huang* in view of *Kumaki* in view of *Sayers*, is suggested by any of the references cited. To defeat a patent under 35 U.S.C. § 103, the claimed *combination* must be obvious. *Kimberly-Clark Corp. v. Johnson & Johnson*, 745 F.2d 1437 (Fed. Cir. 1984). Therefore, it is essential to view the invention as a whole, taking each element into account as well as the advantages, properties, utilities and results of the invention. *In re Chupp*, 816 F.2d 643 (Fed. Cir. 1987). Furthermore, even where an invention is, as a whole, fully disclosed by a combination of prior art elements, such elements cannot be combined to defeat a patent as obvious unless the art teaches or suggests the desirability of making the claim combination. *ASC Hospital Systems, Inc. v. Montefiore Hospital*, 732 F.2d 1572 (Fed. Cir. 1984). Without such *independent* suggestion, the art is to be considered merely inviting unguided and speculative experimentation which is not the standard with which obviousness is determined. *Agmen Inc. v. Chugai Pharmaceutical Co., Ltd.*, 927 F.2d 1260 (Fed. Cir. 1992). The mere fact that references can be combined does not render the resultant combination obvious unless the prior art also suggests the desirability of the combination. *In re Mills*, 916 F.2d (Fed. Cir. 1990). There is no such suggestion to combine *Kumaki* and *Sayers*, and thus Applicants respectfully submit that a rejection of Claims 1, 10, and 16 is improper.

Sayers teaches private and public wireless networks. *Sayers*, Figure 1. However, *Sayers* only discloses the use of one management protocol, SNMP. Even if the Examiner's argument that one skilled in the art would know that the public wireless network would benefit from the use of a management protocol, there is no suggestion that such a protocol be anything other than SNMP that is taught for the private wireless network. The Office Action cites no teaching suggesting the use of two different protocols. Likewise, the Office Action cites no teaching in *Kumaki* suggesting the use of two different management protocols for two wireless networks. Accordingly, the fact that *Kumaki* uses CMIP to manage a wireless network cannot be used to suggest the use of CMIP as one of two network management protocols for the networks disclosed by *Sayers*.

If the Office Action is relying on the teaching of *Sayers* or *Kumaki* to teach the use of two management protocols, the Examiner is requested to specifically identify this teaching. If the Office Action is relying on "common knowledge" or "well known" art in support of this teaching, the Examiner is requested to produce a reference in support of his position pursuant to MPEP § 2144.03. If the Office Action is relying on personal knowledge of the Examiner to supply the teaching, Applicants respectfully request that the Examiner produce an affidavit supporting such facts pursuant to MPEP § 2144.03.

In regard to *Huang et al.*, Applicants point out that a protocol mediator would not appear necessary if only one management protocol is used. As discussed above, neither *Sayers* nor *Kumaki* appear to teach two protocols. Thus, the combination of *Huang et al.* with either reference is improper. Thus, Claim 1 is patentable.

Independent Claims 10 and 16 are allowable for analogous reasons. Additionally, dependent claims 2-9, 11-15, and 17-20, which depend from Claims 1, 10, and 16, respectively, are allowable.

CONCLUSION

Applicants have made an earnest attempt to place this case in condition for allowance. For the foregoing reasons, and for other reasons clearly apparent, Applicants respectfully request full allowance of all pending claims.

If the present application is not allowed and/or if one or more of the rejections is maintained, Applicants hereby request a telephone conference with the Examiner and further request that the Examiner contact the undersigned attorney to schedule the telephone conference.

Applicants do not believe that any fees are due. However, the Commissioner is hereby authorized to charge any fees or credit any overpayments to Deposit Account No. 19-2179 of Siemens Corporation.

Date: Nov-17, 2003

Respectfully requested,

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